THE BINDING FORCE OF INTERNATIONAL LAW. By A. PEARCE HIGGINS, M. A., LL.D. Cambridge: UNIVERSITY PRESS. 1910. pp. 48.

In this small volume, in which is published the inaugural lecture in international law at the London School of Economics and Political Science, for the session of 1910 and 1911, there is a discussion, as the title indicates, of the much debated question of the nature of international law—the question whether the body of rules which civilized states profess to observe in their intercourse one with another should be considered as having the character of law. To the belief that, upon the answer to be given to this question, the attitude not only of lawyers but of the world in general towards what is called International Law in large measure depends, must be ascribed the solicitude so often manifested to bring the system within strict legal categories. In reality, a great part of the discussion has relation to the nature and definition of law. If we accept the Austinian definition as the final and exclusive test, then there is no law but municipal law, and it is idle to contend that "International Law" is law in a proper sense. Some persons have fancied that they could escape this conclusion by invoking the principle that international law is a part of the common law and as such is applied by municipal courts; but it is obvious that this reasoning is shallow and confused and does not reach the root of the controversy. If the court, announcing a certain view to-day, is to-morrow commanded by the legislature to administer the opposite rule, it will obey the legislative command. Besides, there is a large part of international law that is not of judicial cognizance and never comes before the courts for enforcement. The simple fact is that there exists, as Mr. Higgins contends, a body of principles or rules known as international law, or the law of nations, which civilized nations regard as having binding force upon them and as being in this sense of a legal character. These principles or rules constitute a system of their own. They derive their force from the common consent of nations, springing from the common recognition of the necessities of international intercourse.

They differ from municipal law in the source of their authority, and in the method of their definition and enforcement, because there is wanting as between nations that precise organization of forces which is designed to assure the observance of law within the state. This is the exact difference between the two systems. In reality, the rules of International Law are by no means so uncertain as is usually asserted. The rules of municipal law are by no means always certain. We may venture to doubt whether there is any rule of international law as to which there exists to-day so much bewildering confusion, judicial, administrative, and popular, as that which has for twenty years prevailed in regard to the Sherman Anti-Trust Law. It is only within the past few months that the Supreme Court has amid much abuse and vituperation sought to drag it into the "light of reason," and in so doing leveled a disintegrating blow at two corporations, the effect of whose injuries yet remains to be determined. The Attorney-General, perusing, in the "light of reason," the decisions of the court and the pages of Moody's Manual, confesses, in interviews more rectified than clarified, that the checking off of offenders is so essentially a random diversion that the publication of a conjectural list could never be hazarded. Let us have done with superficial reproaches upon the "uncertainty" of international law.

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